

CLOSED

**U.S. District Court  
Eastern District of Virginia – (Alexandria)  
CIVIL DOCKET FOR CASE #: 1:08-cv-00068-LMB –JFA**

Digital Technologies, Inc. v. United States Customs and Border Protection  
Assigned to: District Judge Leonie M. Brinkema  
Referred to: Magistrate Judge John F. Anderson  
Cause: 05:552 Freedom of Information Act

Date Filed: 01/24/2008  
Date Terminated: 09/18/2008  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****Digital Technologies, Inc.**

represented by **Katherine M. Sutcliffe Becker**  
Stinson Morrison Hecker LLP  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**United States Customs and Border Protection**  
*an Agency of the United States*  
*Department of Homeland Security*

represented by **Monika L. Moore**  
US Attorney's Office (Alexandria-NA)  
2100 Jamieson Avenue  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
01/24/2008	<u>1</u>	COMPLAINT against United States Customs and Border Protection ( Filing fee \$ 350 receipt number 100006206.), filed by Digital Technologies, Inc. (Attachments: # <u>1</u> Complaint Part 2# <u>2</u> Civil Cover Sheet # <u>3</u> Cover Letter# <u>4</u> Receipt)(rban, ) (Entered: 01/29/2008)
01/24/2008	<u>2</u>	Summons Issued as to United States Customs and Border Protection, U.S. Attorney, and U.S. Attorney General. US Attorney to be served by process server. Attorney General and US Customs and Border Protection to be served by certified mail. (rban, ) (Entered: 01/29/2008)
01/24/2008	<u>3</u>	Financial Interest Disclosure Statement (Local Rule 7.1) by Digital Technologies, Inc. (rban, ) (Entered: 01/29/2008)
01/24/2008	<u>4</u>	MOTION for Preliminary Injunction by Digital Technologies, Inc. (rban, ) (Entered: 01/29/2008)
01/24/2008	<u>5</u>	Memorandum in Support re <u>4</u> MOTION for Preliminary Injunction filed by Digital Technologies, Inc. (Attachments: # <u>1</u> Proposed Order)(rban, ) (Entered: 01/29/2008)
01/24/2008	<u>6</u>	NOTICE of Hearing on Motion <u>4</u> MOTION for Preliminary Injunction : Motion Hearing set for 2/8/2008 at 10:00 AM before District Judge Leonie M. Brinkema. (rban, ) (Entered: 01/29/2008)
01/29/2008	<u>8</u>	ORDER granting pro hac vice admission of Jessica S. Berk; Filing fee \$ 50.00, receipt number 100006207. Signed by Judge Leonie M. Brinkema on 1/29/2008. (Attachments: # <u>1</u> Receipt)(stas) (Entered: 02/01/2008)

01/29/2008	<u>9</u>	ORDER granting pro hac vice admission of Gary J. Campbell; Filing fee \$ 50.00, receipt number 100006209. Signed by Judge Leonie M. Brinkema on 1/29/2008. (Attachments: # <u>1</u> Receipt)(stas) (Entered: 02/01/2008)
01/29/2008	<u>10</u>	ORDER granting pro hac vice admission of Daniel J. Kelly; Filing fee \$ 50.00, receipt number 100006208. Signed by Judge Leonie M. Brinkema on 1/29/2008. (Attachments: # <u>1</u> Receipt)(stas) (Entered: 02/01/2008)
01/31/2008	<u>7</u>	AFFIDAVIT in Support re <u>1</u> Complaint <i>Verification Of Complaint For Declaratory And Injunctive Relief</i> by Digital Technologies, Inc.. (Attachments: # <u>1</u> Certificate of Service)(Sutcliffe Becker, Katherine) (Entered: 01/31/2008)
01/31/2008	<u>12</u>	SUMMONS Returned Executed as to US Attorney served on 1/25/2008, answer due 3/25/2008. (yguy, ) (Entered: 02/06/2008)
02/04/2008		Notice of Correction re: <u>7</u> AFFIDAVIT in Support re <u>1</u> Complaint <i>Verification Of Complaint For Declaratory And Injunctive Relief</i> by Digital Technologies, Inc. The filing user has been notified to file future documents with the correct signature block on the certificate of service. (stas) (Entered: 02/04/2008)
02/04/2008	<u>11</u>	CONSENT ORDER that, on or before February 22, 2008, the Defendant, United States Customs and Border Protection, shall produce to the Plaintiff, pursuant to the Freedom of Information Act, 5 USC §552 (1) all non-exempt records requested in Plaintiff's November 20, 2007 FOIA Request, which is attached to the Complaint as Exhibit E; and (2) a Vaughn index identifying all records that the Defendant believes are statutorily exempt and the basis of each exemption; and it is further ORDERED that all proceedings in this matter, including the February 8, 2008 hearing, shall be stayed until March 3, 2008; and it is further ORDERED that the time for making any filings herein shall be tolled for the period of such stay; and it is further ORDERED that the Plaintiff reserves its right, pursuant to 5 USC §552(a)(4)(E), to seek its reasonable attorney's fees and other litigation costs reasonably incurred in seeking compliance by the Defendant. Signed by Judge Leonie M. Brinkema on 2/4/2008. (stas) (Entered: 02/04/2008)
03/06/2008	<u>13</u>	ORDER that within five (5) business days counsel advise the Court as to the status of this litigation. Signed by Judge District Leonie M. Brinkema on 3/6/2008. (stas) (Entered: 03/06/2008)
03/12/2008	<u>14</u>	STATUS REPORT by United States Customs and Border Protection. (Moore, Monika) (Entered: 03/12/2008)
03/12/2008	<u>15</u>	STATUS REPORT <i>Plaintiff's Report On Status Of Case</i> by Digital Technologies, Inc.. (Sutcliffe Becker, Katherine) (Entered: 03/12/2008)
03/13/2008		Notice of Correction re: <u>15</u> STATUS REPORT <i>Plaintiff's Report On Status Of Case</i> by Digital Technologies, Inc. The filing user has been notified to file future documents with the correct signature block. (stas) (Entered: 03/13/2008)
03/13/2008	<u>16</u>	ORDER plaintiff...has requested that a status conference be held before March 28, 2008. For good cause shown, plaintiff's request is GRANTED, and it is hereby ORDERED that counsel arrange for a telephonic status hearing with the Court. (See order for details). Signed by Judge District Leonie M. Brinkema on 3/13/2008. (stas) (Entered: 03/14/2008)
03/26/2008	<u>17</u>	ORDER For the reasons stated during a telephone conference held on the record, it is hereby ORDERED that defendants produce a final Vaughn index within thirty (30) days; and it is further ORDERED that, in the interim, defendants release, on a rolling basis, all documents that defendants determine will not be subject to a FOIA exemption. Signed by Judge District Judge Leonie M. Brinkema on 3/26/2008. (stas) (Entered: 03/28/2008)
04/03/2008	<u>18</u>	TRANSCRIPT of Telephone Conference held on March 26, 2008 before Judge Leonie M. Brinkema. Court Reporter: Rhonda F. Montgomery. (stas) (Entered: 04/04/2008)
06/13/2008	<u>19</u>	MOTION for Order to Show Cause by Digital Technologies, Inc.. (Attachments: # <u>1</u> Proposed Order)(Sutcliffe Becker, Katherine) (Entered: 06/13/2008)

06/13/2008	<u>20</u>	Memorandum in Support re <u>19</u> MOTION for Order to Show Cause filed by Digital Technologies, Inc.. (Attachments: # <u>1</u> Declaration of Gary J. Campbell, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Exhibit K, # <u>13</u> Exhibit L)(Sutcliffe Becker, Katherine) (Entered: 06/13/2008)
06/13/2008	<u>21</u>	Notice of Hearing Date set for 06/27/2008 re <u>19</u> MOTION for Order to Show Cause (Sutcliffe Becker, Katherine) (Entered: 06/13/2008)
06/17/2008		Notice of Correction re <u>21</u> Notice of Hearing Date. The filing user has been notified to file an Amended Notice of Hearing Date, as the Notice of Hearing Date set an untimely hearing it should be for 10:00 am instead of 9:30 am. (clar, ) (Entered: 06/17/2008)
06/17/2008		Set Deadlines as to <u>19</u> MOTION for Order to Show Cause. Motion Hearing set for 6/27/2008 at 09:30 AM before District Judge Leonie M. Brinkema. (atty to file amended notice of hearing should be for 10:00 am) (clar, ) (Entered: 06/17/2008)
06/19/2008	<u>22</u>	Notice of Hearing Date <i>Amended Notice of Hearing</i> set for 06/27/08 re <u>19</u> MOTION for Order to Show Cause (Sutcliffe Becker, Katherine) (Entered: 06/19/2008)
06/20/2008		Reset Deadlines as to <u>19</u> MOTION for Order to Show Cause. Motion Hearing set for 6/27/2008 at 10:00 AM before District Judge Leonie M. Brinkema. (clar, ) (Entered: 06/20/2008)
06/24/2008	<u>23</u>	Response in Opposition re <u>19</u> MOTION for Order to Show Cause filed by United States Customs and Border Protection. (Attachments: # <u>1</u> Declaration of Paul Oman)(Moore, Monika) Modified on 6/24/2008 to correct docket text (stas). (Entered: 06/24/2008)
06/24/2008		Notice of Correction re <u>23</u> Memorandum in Opposition re <u>19</u> MOTION for Order to Show Cause filed by United States Customs and Border Protection. The filing user selected the wrong event. Memorandum in Opposition was selected, and Response in Opposition to Motion should have been selected. The docket has been corrected. (stas) (Entered: 06/24/2008)
06/27/2008	<u>24</u>	Minute Entry for proceedings held before District Judge Leonie M. Brinkema: Motion Hearing held on 6/27/2008. Appearance of counsel. Plt's <u>19</u> MOTION for Order to Show Cause was argued in open court and DENIED. Court to issue order. (Court Reporter Thomson.) (ygyu) (Entered: 06/27/2008)
06/27/2008	<u>25</u>	ORDER: For the reasons stated in open Court, plaintiff's <u>19</u> Motion for Order to Show Cause is DENIED, and it is hereby ORDERED that any motions for summary judgment be filed no later than Friday, July 18, 2008, with oppositions due by Friday, August 1, 2008, and replies due by Wednesday, August 6, 2008; and it is further ORDERED that counsel notice any summary judgment motions for oral argument during a regularly scheduled Friday docket. Signed by District Judge Leonie M. Brinkema on 06/27/08. (ygyu) (Entered: 06/30/2008)
07/08/2008	<u>26</u>	SCHEDULING ORDER: Initial Pretrial Conference set for 7/30/2008 at 10:00 AM before Magistrate Judge John F. Anderson. Discovery due by 10/10/2008. Final Pretrial Conference set for 10/16/2008 at 10:00 AM before District Judge Leonie M. Brinkema. Signed by District Judge Leonie M. Brinkema on 7/8/2008. (Attachments: # <u>1</u> Pretrial Notice, # <u>2</u> Alexandria Magistrate Judge Consent Form)(stas) (Entered: 07/09/2008)
07/11/2008	<u>27</u>	Joint MOTION to Stay re <u>26</u> Scheduling Order, by Digital Technologies, Inc., United States Customs and Border Protection. (Attachments: # <u>1</u> Proposed Order)(Moore, Monika) (Entered: 07/11/2008)
07/11/2008	<u>28</u>	ORDER that the Initial Order issued in this case is stayed pending resolution of the parties' cross-motions for summary judgment. (See Order For Details). Signed by District Judge Leonie M. Brinkema on 7/11/08. (nhall) (Entered: 07/15/2008)
07/11/2008	<u>29</u>	TRANSCRIPT of Proceedings held on 06/27/08 – Motion Hearing – before Judge Leonie M. Brinkema. Court Reporter: Anneliese Thomson. (pmil) (Entered: 07/15/2008)

07/18/2008	<u>30</u>	MOTION for Summary Judgment by United States Customs and Border Protection. (Moore, Monika) (Entered: 07/18/2008)
07/18/2008	<u>31</u>	Memorandum in Support re <u>30</u> MOTION for Summary Judgment filed by United States Customs and Border Protection. (Attachments: # <u>1</u> Declaration of Paul Oman, # <u>2</u> Supplemental Declaration of Paul Oman, # <u>3</u> Declaration of Diane Sahakian, # <u>4</u> Declaration of Jeffrey Werner Baer, # <u>5</u> Declaration of Shari Suzuki, # <u>6</u> Vaughn Index, # <u>7</u> Attached Cases)(Moore, Monika) (Entered: 07/18/2008)
07/18/2008	<u>32</u>	Notice of Hearing Date set for 08/08/08 re <u>30</u> MOTION for Summary Judgment (Moore, Monika) (Entered: 07/18/2008)
07/18/2008	<u>33</u>	MOTION for Summary Judgment by Digital Technologies, Inc.. (Attachments: # <u>1</u> Proposed Order)(Sutcliffe Becker, Katherine) (Entered: 07/18/2008)
07/18/2008	<u>34</u>	MOTION for Summary Judgment <i>Plaintiff's Memorandum in Support of its Motion for Summary Judgment</i> by Digital Technologies, Inc.. (Attachments: # <u>1</u> Affidavit Affidavit of Gary Campbell, # <u>2</u> Exhibit Exhibit A to Campbell Affidavit, # <u>3</u> Exhibit Exhibit B to Campbell Affidavit, # <u>4</u> Exhibit Exhibit C to Campbell Affidavit, # <u>5</u> Exhibit Exhibit D to Campbell Affidavit, # <u>6</u> Exhibit Exhibit E to Campbell Affidavit, # <u>7</u> Exhibit Exhibit F to Campbell Affidavit, # <u>8</u> Exhibit Exhibit G to Campbell Affidavit, # <u>9</u> Exhibit Exhibit G to Campbell Affidavit, # <u>10</u> Exhibit Exhibit I to Campbell Affidavit, # <u>11</u> Exhibit Exhibit J to Campbell Affidavit, # <u>12</u> Exhibit Exhibit K to Campbell Affidavit, # <u>13</u> Exhibit Exhibit L to Campbell Affidavit, # <u>14</u> Exhibit Exhibit M to Campbell Affidavit, # <u>15</u> Exhibit Exhibit N to Campbell Affidavit, # <u>16</u> Exhibit Exhibit O to Campbell Affidavit, # <u>17</u> Exhibit Exhibit P to Campbell Affidavit, # <u>18</u> Exhibit Exhibit Q to Campbell Affidavit)(Sutcliffe Becker, Katherine) (Entered: 07/18/2008)
07/18/2008	<u>35</u>	Notice of Hearing Date for <i>Digital Technologies, Inc.'s Motion for Summary Judgment</i> set for 8/8/2008 re <u>34</u> MOTION for Summary Judgment <i>Plaintiff's Memorandum in Support of its Motion for Summary Judgment</i> , <u>33</u> MOTION for Summary Judgment (Sutcliffe Becker, Katherine) (Entered: 07/18/2008)
07/21/2008		Set Deadlines as to <u>30</u> MOTION for Summary Judgment, <u>33</u> MOTION for Summary Judgment, <u>34</u> MOTION for Summary Judgment <i>Plaintiff's Memorandum in Support of its Motion for Summary Judgment</i> . Motion Hearing set for 8/8/2008 at 10:00 AM before District Judge Leonie M. Brinkema. (krob, ) (Entered: 07/21/2008)
08/01/2008	<u>36</u>	Joint MOTION for Extension of Time to File Response/Reply <i>Memoranda to Cross-Motions for Summary Judgment</i> by Digital Technologies, Inc., United States Customs and Border Protection. (Attachments: # <u>1</u> Proposed Order)(Moore, Monika) (Entered: 08/01/2008)
08/01/2008	<u>37</u>	ORDER for good cause having been shown upon the parties' <u>36</u> Joint MOTION by Digital Technologies, Inc., United States Customs and Border Protection for Extension of Time to File Response/Reply Memoranda to Cross-Motions for Summary Judgment, it is hereby ORDERED that the parties be granted a one-day extension of time, up to and including, August 4, 2008 to file their Opposition Memoranda. Signed by District Judge Leonie M. Brinkema on 8/1/2008. (stas) (Entered: 08/04/2008)
08/04/2008		Notice of Correction re: <u>36</u> Joint MOTION for Extension of Time to File Response/Reply Memoranda to Cross-Motions for Summary Judgment by Digital Technologies, Inc., United States Customs and Border Protection. The filing user has been notified to file future documents with the correct signature block. (stas) (Entered: 08/04/2008)
08/05/2008	<u>38</u>	CONSENT ORDER that both the <u>30</u> MOTION for Summary Judgment by United States Customs and Border Protection, and the <u>33</u> MOTION for Summary Judgment by Digital Technologies, Inc. are withdrawn; ORDERED that Plaintiff reserves its right, pursuant to 5 USC §552(a)(4)(E), to seek its reasonable attorney's fees and other litigation costs reasonably incurred in bringing this suit. (See consent order for details). Signed by District Judge Leonie M. Brinkema on 8/5/2008. (stas) (Entered: 08/05/2008)

08/25/2008	<u>39</u>	ORDER that, within eleven (11) days, plaintiff file either a motion for fees and costs or an order of dismissal. (See order for details). Signed by District Judge Leonie M. Brinkema on 8/25/2008. (stas) (Entered: 08/27/2008)
09/05/2008	<u>40</u>	MOTION for Attorney Fees <i>Plaintiff's Motion For Award of Attorneys' Fees and Cost</i> by Digital Technologies, Inc.. (Attachments: # <u>1</u> Memorandum)(Sutcliffe Becker, Katherine) (Entered: 09/05/2008)
09/05/2008	<u>41</u>	AFFIDAVIT re <u>40</u> MOTION for Attorney Fees <i>Plaintiff's Motion For Award of Attorneys' Fees and Cost Affidavit of Katherine M. Sutcliffe Becker In Support of Plaintiff's Motion For Attorneys' Fees and Cost</i> by Digital Technologies, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Sutcliffe Becker, Katherine) (Entered: 09/05/2008)
09/05/2008	<u>42</u>	AFFIDAVIT re <u>40</u> MOTION for Attorney Fees <i>Plaintiff's Motion For Award of Attorneys' Fees and Cost Affidavit of Gary J. Campbell In Support of Plaintiff's Motion For Attorneys' Fees and Costs</i> by Digital Technologies, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L)(Sutcliffe Becker, Katherine) (Entered: 09/05/2008)
09/17/2008	<u>43</u>	STIPULATION of Dismissal by Digital Technologies, Inc., United States Customs and Border Protection. (Moore, Monika) (Entered: 09/17/2008)
09/18/2008		Notice of Correction re: <u>43</u> STIPULATION of Dismissal by Digital Technologies, Inc., United States Customs and Border Protection. The filing user has been notified that the consent order filed as a stipulation of dismissal is exempt from electronic filing and should be resubmitted in paper form with original signatures. (stas) (Entered: 09/18/2008)
09/18/2008	<u>44</u>	CONSENT ORDER Plaintiff's Motion for Award of Attorneys' Fees and Costs is withdrawn; this case is dismissed without prejudice. Signed by District Judge Leonie M. Brinkema on 9/18/08. (jcor, ) (Entered: 09/19/2008)